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ARTICLE 3

SANITARY SEWER SYSTEM

SEC. 11-3.000 DEFINITIONS. For the purposes of this Article, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from the context that a different meaning is intended.

- a. Approved by the City Engineer shall mean approval and acceptance by the City Engineer as to material, workmanship and type of construction as the results of investigations, inspections, or tests conducted by the City Engineer, or by reason of accepted principles or tests by the United States Bureau of Standards, American Society for Testing Materials, or other nationally recognized authorities.
- b. Backwater Valve shall mean any approved check valve or other approved device to prevent the flow of sewage from the public sewer into the building.
- c. Building shall mean any structure erected for the support, shelter, and enclosure of persons, animals, chattel or movable property of any kind.
- d. Building Court shall mean two or more buildings containing four or more dwelling units or two or more commercial and/or industrial buildings on premises or parcel under one ownership and to remain under one ownership.
- e. Building Court House Sewer shall mean the extension from the building drain to the building court main sewer, and shall be located within the building lot boundaries.
- f. Building Court Main Sewer shall mean the extension from the building court house sewer to a public sewer or other place of disposal.
- g. Building Drain shall mean House Drain.
- h. Building Sewer shall mean House Sewer.
- i. Carbonaceous Biochemical Oxygen Demand (CBOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter, expressed in parts per million by weight. CBOD concentrations shall be determined under standard analytical procedures specified in the publication "Standard Methods for the Examination of Water and Wastewater" jointly prepared and published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation and/or other alternate procedures specified and required by the United States Environmental Protection Agency and/or the State of California Environmental Protection Agency.
- j. Cesspool shall mean an excavation in the ground which receives the discharge of a drainage system, or part thereof, so designed and constructed as to retain the organic

matter and solids discharging therein but permitting the liquids to seep through the bottom and sides.

- k. Commercial User shall mean any retail store, restaurant, office building, laundry, and any other private business and service establishment and place of public assembly, including churches and lodges.
- l. Customer shall mean any person(s), business, organization, or other agency that obtains sewer service from the City of Hayward.
- m. Domestic Sewage shall mean wastewater that is produced from non-commercial and non-industrial activities and that results from normal human living processes.
- n. Drainage System, or Drainage Piping shall mean and include all the piping within public or private premises which conveys sewage, or other liquid wastes, to a point of disposal, but shall not include the mains, laterals, manholes, and pipe encasements of a public sewer system.
- o. Dwelling Unit shall mean a building or portion of a building arranged, intended or designed to be occupied by not more than one family, a congregate residence for 10 or fewer people, and having facilities for sleeping, eating, cooking and sanitary purposes, independent of another dwelling or dwellings.
- p. Garbage shall mean a putrescible animal, fish, fowl, fruit, or vegetable refuse or any part thereof resulting from the preparation, storage, handling, processing or consumption of food.
- q. Grease Interceptor/Trap shall mean a receptacle designed to collect and retain grease and fatty substances normally found in kitchen, food processing, or similar wastes.
- r. House Drain, or Building Drain or Main Drain shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning two (2) feet outside the building wall that faces the public sewer.
- s. House Sewer, or Building Sewer shall mean the extension from the house drain to the public sewer or other place of disposal, which is not less than two (2) feet from any building or structure foundation or footing that faces the public sewer.
- t. Industrial User shall mean any non-residential user of the public sewer system that is identified in the Standard Industrial Classification Manual, 1987, Office of Management and Budget, and amended and supplemented, under the following divisions: (a) Division A – Agriculture, Forestry and Fishing; (b) Division B – Mining; (c) Division D – Manufacturing; (d) Division E – Transportation, Communications, Electric, Gas, and Sanitary; and (e) Division I - Services.
- u. Industrial Wastes shall mean all types of waste which result from industrial and manufacturing operations. Such wastes are usually more concentrated, more varied

in content and rate, and require more extensive or different treatment than domestic waste.

- v. Insanitary shall mean a condition which is contrary to sanitary principles or is injurious to health. Conditions to which the word "insanitary" shall apply include the following but shall not be limited thereto:
 - (1) The discharge of sewage to the environment, except to an approved septic system, or to the soil without proper treatment.
 - (2) Any opening in a drainage system, except where lawful, which would permit the escape of gases or sewage or would permit persons to make physical contact with the sewage.
 - (3) Faulty septic tanks or drainfields permitting sewage to seep or stand on the surface of the ground or potentially contaminate an underground water system.
 - (4) Any connection, cross-connection, construction or condition, temporary or permanent, between a potable water system and any source or system containing unapproved water, any amount of sewage, or any substance than is not or cannot be approved as safe, wholesome, and potable. By-pass arrangements, jumper connections, removable sections, swivel or changeover assemblies, or other assemblies through which backflow could occur, shall be considered to be cross-connections.
 - (5) The discharge of wastewater from swimming pools upon the ground.
- w. Lot shall mean a single or individual parcel or area of land, legally recorded, on which is situated a building together with the yards, courts and unoccupied spaces legally required for the building and which is owned by or is in the lawful possession of the owner of the building.
- x. Multiple Residential Living Unit shall mean a unit in a multiple residential structure of five or more living units with cooking facilities suitable for residential occupancy by persons living together in each unit, including apartments and condominiums with over five units to a structure, and trailer spaces in a mobile home park.
- y. MUNICIPAL Sewer System shall mean all of the property, heretofore or hereafter constructed and/or owned by the City, involved in the collection and treatment of wastewater. It includes land, wastewater lines and appurtenances, pumping stations, treatment works and general property.
- z. Outside Sewer shall mean sewer lines owned by the City lying outside the City limits.
- aa. Premises shall mean any lot, piece or parcel of land, any building or other structure or any part of any building or structure used or useful for human habitation or gathering or for carrying on a business or occupation. Any other unit that can be separately owned, such as a condominium unit, shall also be considered one premises.

- bb. Public Sewer shall mean any sewer which is part of the municipal sewer system, including any sewer main within any public street or sewer easement and any outside sewer.
- cc. Regulations shall mean the Wastewater Discharge Regulations of the City of Hayward or any amendments to or replacements thereof.
- dd. Sanitary Sewer shall mean a sewer that carries liquid and waterborne wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- ee. Septic Tank shall mean a water-tight receptacle which receives the discharge of a drainage system or part thereof, designed and constructed so as to retain solids, digest organic matter through a period of detention, and allow the liquids to discharge into the soil outside of the tank through a system of open joint piping, or a seepage pit meeting the requirements of this Code.
- ff. Sewage or Sanitary Sewage shall mean the spent or used water, containing dissolved and suspended matter, of a domestic, commercial or industrial facility; also known as wastewater.
- gg. Sewer shall mean a pipe or conduit for carrying sewage, but shall not include house drain, or plumbing within the house.
- hh. Sewer Service shall mean the services and facilities, furnished or available to premises by the municipal sewer system, for collection, treatment and disposal of sewage.
- ii. Sewage Works shall mean all facilities for collecting, pumping, treating, and disposing of sewage. Sewage Works shall mean Sewerage Works.
- jj. Sewer Capacity Rights shall mean the flow (in gallons per day), CBOD (in pounds per year), and suspended solids (in pounds per year) of sewage that a customer is entitled to discharge from each connection on an average daily basis. Such rights shall be purchased by payment of sewer capacity fees at the time of connection to the public sewer system or when additional capacity is needed to serve the user.
- kk. Sewer Connection Fees shall be monies paid by applicant to purchase capacity in the City's sewer system. Fees shall be paid to: (a) buy in to existing public sewer system facilities; and (b) fund the future construction of facilities needed for development. The sewer capacity fee paid represents the proportion of the existing system that will be used by the new customer and the proportion of costs of future projects that will be needed to serve the new customer.
- ll. Sewer Contractor shall mean a contractor holding a valid business license to do sewer work in the City of Hayward.

- mm. Sewer Service Charge shall mean the use-based charge to customers for the costs of operating and maintaining the sewer collection and treatment system, including replacement. Sewer service charges shall take into account the demands placed on the system by users groups. Charges levied to commercial and industrial users may also include cost of activities related to monitoring and sampling wastewater discharge.
- nn. Standard Residential Living Unit shall mean any detached premise or a unit in a multiple residential structure of two to four living units with cooking facilities suitable for residential occupancy by any number of persons living together as a single family; including single family homes, duplexes, triplexes, fourplexes, and individual units of townhouses, planned developments and condominiums up to and including four units.
- oo. Stormwater shall mean stormwater runoff and surface runoff and drainage; also known as storm sewage.
- pp. Storm Sewer or Storm Drains shall mean a pipe which carries stormwater and drainage but excludes sanitary sewage and polluted industrial wastes.
- qq. Suspended Solids (SS) shall mean solids that either float on the surface of, or are in suspension in, wastewater or other liquids and which are removable by laboratory filtering, expressed in parts per million by weight. SS concentrations shall be determined under standard analytical procedures specified in the publication "Standard Methods for the Examination of Water and Wastewater" jointly prepared and published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation and/or other alternate procedures specified and required by the United States Environmental Protection Agency and/or the State of California Environmental Protection Agency.
- rr. Water Pollution Control Facility shall mean an arrangement of devices and structures for treating wastewater and industrial wastes. Also known as sewage treatment plant or wastewater treatment plant.

ENFORCEMENT

SEC. 11-3.100 OFFICERS RESPONSIBLE. The Director of Public Works shall be responsible for enforcing the provisions of this Article which pertain to:

- a. Use of public sewers;
- b. Connection of private house sewers to public sewers;
- c. House sewers which connect to public sewers.

The Health Officer of Alameda County shall be responsible for the enforcement of provisions which pertain to the correction or abatement of insanitary conditions which present an immediate hazard to life and health.

SEC. 11-3.101 RIGHT OF ENTRY. The aforesaid officers and their authorized agents shall have the right of entry, during usual business hours, and at any time when, upon reasonable cause, they believe there is an immediate hazard to life, health, or property, to inspect any and all buildings and premises in the performance of their duties.

SEC. 11-3.102 DANGEROUS AND INSANITARY CONDITION. Whenever any construction or condition regulated by this Article is deemed by the responsible officer to be dangerous, unsafe, insanitary or a menace to life, health or property or is in violation hereof, the responsible officer shall order any person using or maintaining any such condition or responsible for the use or maintenance thereof to discontinue the use of or maintenance thereof or to repair, alter, change, remove or demolish same as the officer may consider necessary for the proper protection of life, health or property.

Every such order shall be in writing, addressed to the owner, agent or person responsible for the premises in which such condition exists and shall specify the date or time when such order shall be complied with, which time shall allow a reasonable period in which such order can be complied with by the person receiving such order but shall never exceed the maximum period for which such construction can be safely used or maintained in the judgment of said officer. Refusal, failure or neglect to comply with any such notice or order shall be considered a violation of this Article.

SEC. 11-3.103 DANGEROUS AND INSANITARY CONDITION. DECLARED A PUBLIC NUISANCE. The existence of any construction or condition of plumbing or sewers on any premises within the City of Hayward which is found to be dangerous, unsafe, insanitary, or a menace to life, health, or property and a hazard thereto is hereby declared to be a public nuisance and shall be corrected or abated as hereinafter provided. Without limiting the foregoing declaration, a public nuisance is hereby declared to include any sewer or plumbing or other construction or contrivance from which sanitary sewage or gases or moisture therefrom is emitted or escapes in quantity sufficient to or to threaten to pollute the air or soil so as to attract or proliferate insects or rodents or to spread disease or to contaminate water supplies or to otherwise endanger the life or health of persons or domestic animals or livestock.

SEC. 11-3.104 ABATEMENT. In the event the Health Officer of Alameda County determines, or, upon reasonable cause, believes, that the hazard to life, health, or property is so immediate and urgent that time does not permit the giving of notice, the Health Officer of Alameda County shall forthwith cause said public nuisance to be abated or corrected. The work of abatement or correction may be done by employment of a contractor, or by City forces, in the discretion of the responsible official, and the official may call upon the Department of Public Works or other department of the City to perform such work.

If the City of Hayward determines that the provision of water service to any premises served by the Hayward Municipal Water System is facilitating the continuation of any dangerous and insanitary condition or facilitating the continuing discharge of wastewater from the building drain system to the stormwater collection system or ground surface, the City may temporarily suspend water service to such premises until said conditions are corrected.

The costs thereof shall be a charge upon and paid from the Sewer fund and thereafter recovered through the procedures set forth in the following sections.

SEC. 11-3.105 HEARING ON ABATEMENT COSTS. Upon correcting or abating any public nuisance as heretofore provided, the responsible officer shall file a written report with the City Clerk, together with any supplementary reports the officer may desire to file, and a brief report on said abatement or correction itemizing the costs of said abatement or costs. The City Clerk shall then set the matter of confirmation of the abatement and costs thereof and assessment of the costs upon the parcel or parcels of real property upon which said public nuisance was located for hearing before the City Council at a regular meeting not later than thirty (30) days after receipt of said reports and shall cause notice thereof to be given as hereinafter provided. Notice of said hearing shall be in writing and shall describe the real property by reference to the street and street number address or other commonly used designation and also by reference to the County Assessor's description on the last equalized assessment roll, shall state the time, date, and place of hearing, and shall refer to the reports on file with the Clerk for further particulars. Notice shall be delivered personally or sent by ordinary mail addressed to the owner at his address as shown on the last equalized assessment roll or as otherwise known to the Clerk, and shall also be posted on a conspicuous place upon the front of said premises. Service of notice by mail shall be deemed completed upon deposit in the mail. Notice shall be given at least ten (10) days prior to said hearing.

SEC. 11-3.106 CONFIRMATION OF COSTS. At the time and place fixed for hearing the City Council shall consider the reports filed with the Clerk and such evidence as may be presented by any interested party and shall hear the objections of any owner of said real property. The hearing may be continued from time to time. Upon conclusion of the hearing the City Council shall confirm, modify, or disapprove the abatement proceedings and the costs thereof. Upon confirmation, the costs of abatement constitute a special assessment against said real property and a lien thereon and a personal obligation against the property owner.

SEC. 11-3.107 COLLECTION OF ASSESSMENT. After confirmation of the costs of abatement and their assessment upon said real property, the Director of Finance shall promptly mail a statement of the costs to the property owner at the address to which notice of the hearing before the City Council was sent by the City Clerk, or as otherwise known to the Director of Finance. Failure to mail the statement or failure to receive it shall in no way affect the assessment, lien, or obligation. If the assessment is not paid within fifteen (15) days after its confirmation, the Director of Finance may record a notice of lien in the Office of the County Recorder of the County of Alameda a certificate substantially in the following form, to-wit:

NOTICE OF LIEN

Pursuant to authority of Chapter 11, Article 3 of the Municipal Code of the City of Hayward, the City of Hayward, a municipal corporation, located in Alameda County, State of California, did cause a certain public nuisance located on the hereinafter described real property to be abated, and thereafter, on the ____ day of ____, 2 ____, did assess the costs thereof, in the amount of \$____, and impose said costs as a lien against said real property. The said amount of costs has not been paid nor any part thereof, and the City of Hayward does hereby claim a lien upon said real property in said amount. The same shall continue as an assessment and lien upon said real property until said amount with interest at the rate of six percent (6%) per annum thereon from the date of

recording of this instrument in the Office of the County Recorder of the County of Alameda has been paid in full.

The real property hereinabove mentioned and upon which a lien is claimed is that certain piece or parcel of land in the City of Hayward, County of Alameda, State of California, described as follows, to-wit:

(DESCRIPTION)

Dated this ____ day of _____, 2____

CITY OF HAYWARD
a municipal corporation

By
Director of Finance

As an alternative to or in addition to recording of a notice of lien as hereinabove set forth, the Director of Finance may deliver a notice of lien, which shall also describe said real property by the descriptions used by the County Assessor for the same property for the then current tax year, to the Auditor of Alameda County who shall enter the amount of the assessment and lien on the county assessment roll opposite said real property as listed therein. The amount of the assessment and lien shall be collected at the same time and in the same manner as other taxes and assessments against said property. All laws applicable to the levy, collection, and enforcement of City taxes and County taxes are hereby made applicable to such assessment and lien.

RESPONSIBILITY OF CONTRACTORS

SEC. 11-3.150 GENERAL REQUIREMENTS BEFORE INSTALLING SEWERS.

It shall be unlawful for any person to carry on, or engage in the business of installing sewers unless such person holds a valid business license issued by the City of Hayward, as a Sewer Contractor. The installation of sewers as defined herein shall not be classed as plumbing.

GENERAL REGULATIONS

GENERAL INSTRUCTIONS AND REQUIREMENTS

SEC. 11-3.200 SEPTIC TANK. UNLAWFUL USE.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

SEC. 11-3.201 DUTY TO CONNECT TO MUNICIPAL SEWER.

The owner of any property used for human occupancy, employment, recreation, or other purpose, which abuts on any street, alley or right of way in which there is located a public sanitary sewer of the City, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such

facilities directly with said public sewer in accordance with the provisions of this Article, within ninety (90) days after date of official notice to do so provided that said public sewer is within two hundred (200) feet of the property line, except:

- a. Any owner receiving such notice may apply in writing to the City Manager before expiration of said ninety (90) day period for a permit to delay the installation of such a sewer service not to exceed one (1) year if the owner can furnish sufficient evidence to the City Manager that:
 - (1) Connection to the sewer at this time would be impractical due to personal hardship; and
 - (2) The premises are now served by a septic tank; and
 - (3) By written report of the Alameda County Department of Environment Health, the septic tank is operating efficiently now and that its continued operation would not create a hazard to public health.

Upon receipt of such evidence to the City Manager's satisfaction, the said extension of time for completing the connection may be granted in writing. Such a delay shall not be subject to further extensions.

- b. Any property legally serviced by a private septic system in the Mt. Eden Annexation area can delay connecting to the public sewer system for up to 10 years from the effective date of the annexation, provided that:
 - (1) The owner of the affected property receiving official notice to connect to the public sewer system submits a written notice to the Director of Public Works within 90 days of receipt of such notice, indicating he/she wishes to delay connection;
 - (2) There are no changes in use on the property, addition of facilities or other changes that increase the sewer discharge; and
 - (3) The owner of the affected property provides written evidence to the City annually by December of each calendar year that the septic system is operating properly. Evidence can take the form of a visual inspection by a licensed plumbing contractor with experience in inspecting septic systems, the Alameda County Department of Environmental Health, or other qualified person as approved by the City.

Upon receipt of such evidence to the City Manager's satisfaction, the said extension of time for completing the connection may be granted in writing. Such a delay shall not be subject to further extensions.

Owners of properties affected by this exception shall be required to record with the Alameda County Recorder's Office a notice indicating that the property will be required to connect to the public sewer system upon written notice from the City of Hayward if failure of the septic

system occurs, if expansion of use resulting in increased sewer discharge occurs or when the 10-year time frame expires, whichever first occurs.

Properties that connect to the City system will be required to pay all connection charges in effect at the time of connection.

SEC. 11-3.202 SEPTIC TANK CONSTRUCTION. When permitted, the house sewer or private sewer shall be connected to a private sewage disposal system. Such private sewage disposal system shall be designed, constructed, operated and maintained in accordance with requirements of the Alameda County Department of Environmental Health and shall be approved by the City Engineer. There shall be no expense to the City for the operation and maintenance of private sewage disposal facilities.

When, in the opinion of the Alameda County Department of Environmental Health, there is insufficient lot area or inadequate soil condition for adequate sewage disposal for the building or land use proposed, no building permit shall be issued and no private sewage disposal system shall be permitted. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 40,000 square feet or where there is an available public sewer within 200 feet, measured along streets, alleys, or public right-of-way upon which a lot abuts. No septic tank or cesspool shall be permitted to discharge into any public sewer or natural outlet.

CONSTRUCTION PERMIT PROCEDURES

SEC. 11-3.250 CONSTRUCTION PERMIT REQUIRED. No person whose premises are not now connected with the municipal sewer system shall connect any premises or cause any premises to be connected with the municipal sewer system without first obtaining a construction permit from the City Engineer to do so.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written construction permit approved by the City Engineer.

SEC. 11-3.251 APPLICATION FOR CONSTRUCTION PERMIT. Every applicant for a construction permit to install, add to, alter, relocate, or replace sewerage facilities, or any part thereof, shall state in writing on the application form provided for that purpose, the work proposed to be done and the location, ownership, occupancy and use of the premises in connection therewith. The City Engineer may require plans, specifications, or drawings and other such information as deemed necessary.

At the time that a construction permit is issued, the applicant shall pay the established permit fee.

Any person who shall commence sewerage work for which a construction permit is required by this Article without first having obtained a construction permit therefor shall, if subsequently permitted to obtain a construction permit, pay double the construction permit fee fixed by this Article for such work. This provision shall not apply to emergency work when it shall be

proved to the satisfaction of the City Engineer that such work was urgently necessary and that it was not practical to obtain a construction permit therefore before the commencement of work. In all such cases a construction permit must be obtained as soon as it is practical to do so, and if there be an unreasonable delay in obtaining such construction permit, a double fee as herein provided shall be charged.

SEC. 11-3.252 TO WHOM CONSTRUCTION PERMITS MAY BE ISSUED.

No construction permit shall be issued to any person to do, or cause to be done, any construction or work regulated by this Article except to a person holding a valid, unexpired and unrevoked City business license as a sewer contractor, except when and as otherwise herein provided.

A construction permit required by this Article may be issued to any person to do any construction or work regulated by this Article within the lot limits of a single family dwelling provided such person is the owner of the lot and building, such building is occupied or designed to be occupied by the owner, and that said owner shall personally purchase all materials and shall personally perform all labor in connection therewith. This does not give anyone other than a licensed contractor permission to do any work within the public right of way.

No sewerage work for which a construction permit is required shall be commenced until a construction permit to do such work shall have first been obtained.

SEC. 11-3.253 UNLAWFUL ACTS UNDER CONSTRUCTION PERMIT. The issuance or granting of a construction permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this Article. No construction permit presuming to give authority to violate or cancel the provisions of this Article shall be valid, except insofar as the work or use which it authorizes is lawful.

The issuance of a construction permit shall not prevent the City Engineer from thereafter requiring the submittal of additional plans and specifications or correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of this Article or of any other regulations of the City.

SEC. 11-3.254 EXPIRATION OF CONSTRUCTION PERMIT. Every construction permit issued by the City Engineer under the provisions of this Article shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within one hundred twenty (120) days from the date of such permit, or if the work authorized by such construction permit is suspended or abandoned at any time after the work is commenced for a period of one hundred twenty (120) days. Before such work can be recommenced, a new construction permit shall first be obtained so to do.

SEC. 11-3.255 SEWER SYSTEM CONNECTION FEES

- a. Authority to Assess Connection Fees. Any customer (new or existing) of the municipal sanitary sewer system who installs new or additional fixtures, processes, or equipment, or otherwise causes an increase in wastewater discharge into the City sewer, is required to pay to the City a sewer connection fee. No connection shall be made to the sewer system, and no increase in wastewater discharge strength or volume shall occur from an existing connection, until the City has approved such

discharge and applicable sewer connection fee has been paid. Fees shall be paid in accordance with the following:

Residential Users: One standard residential connection fee shall be assessed for each new single family, duplex, triplex or fourplex living unit. One multi-family residential sewer connection fee shall be assessed for each unit in a multiple-family building (that is, a building with five or more dwelling units) and each mobile home living unit.

Commercial, Industrial, Institutional and Other Users: The sewer connection fee will be calculated in accordance with the number of gallons of daily capacity required to serve the customer and the pounds per year of carbonaceous biochemical oxygen demand (CBOD) and suspended solids (SS) in the proposed discharge.

Sewer Connection Fees shall be adopted by resolution of the Hayward City Council.

- b. **Minimum Connection Fee.** The minimum sewer connection fee for commercial, industrial, institutional properties will be no less than that of a single-family dwelling unit.
- c. **Sewer Connection Fee Credits.** In determining sewer connection fees for a facility, the City shall credit applicants with the capacity previously paid for and purchased for the property. If documentation is not available regarding purchased capacity, the City shall determine the likely purchased capacity. No other credit shall be granted.
- d. **Additional Connection Fees for Existing Customers.** In the event that average discharge volume or waste strength from a non-residential customer is higher than the estimated volume or strength on which the original sewer capacity fee was based, or there is an increase in discharge, the City of Hayward may, at its sole discretion: 1) assess additional sewer connection fees if sufficient sewer system capacity is available; or 2) require the user to reduce its discharge to volume and strength within its authorized discharge. Additional connection fees will be calculated at the rates in effect at the time that additional capacity is purchased.
- e. **Existing Uses Not Subject to Payment of Sewer Connection Fees.** Existing sewer uses, “grandfathered” prior to 1996, shall not be subject to payment of sewer connection fees as long as the following conditions are met:
 - (1) The property boundaries are not expanded; and
 - (2) The use of the property does not change; and
 - (3) 50% or more of the ownership remains the same; and
 - (4) The volume and waste strength of discharge from the property does not increase.
- f. **Connection Fee Nonrefundable.** All sewer connection fees as herein provided are non-refundable. Exceptions may be made if, within one year of payment of sewer

connection fees, the average discharge volume or waste strength from a non-residential user is significantly lower than the estimated volume or strength on which a sewer connection fee was based. Wastewater discharge from properties for which refunds have been granted will be limited to the volume and/or waste strength as adjusted after the refund has been made. Such refunds must be requested by the payer of the sewer connection fee, and are subject to approval by the City. In the event that a refund is granted, any subsequent increase in discharge from the facility will be subject to the City's review and approval in accordance with d. above.

- g. **Payment Schedule.** Sewer connection fees in excess of Twenty Five Thousand Dollars (\$25,000) may be made in monthly payments, over a term not to exceed thirty-six months, with interest, subject to the determination and approval of the City Manager.
- h. **Sewer Capital Improvement Fund.** All revenues derived from Sewer System connection fees shall be deposited in a special fund titled "Sewer Capital Improvement Fund" and used only for sewer system purposes authorized in that Fund.
- i. **Capacity Rights and Transferability.** Sewer system capacity rights and the right to connect to the public sewer shall run with the property and shall not be transferred to, or used for any property other than the property for which sewer connection fees were paid, unless the City Manager specifically authorizes such a transfer.

SEC. 11-3.256 CONSTRUCTION PERMIT FEES. Construction permit fees shall be as specified from time to time by resolution of the Hayward City Council.

SEC. 11-3.257 ALL WORK TO BE INSPECTED. All pipes, fittings and other appurtenances relative to a sewerage system shall be inspected by the City Engineer to insure compliance with all the requirements of this Article.

SEC. 11-3.258 NOTIFICATION. It shall be the duty of the person doing the work authorized by the permit, to notify the City Engineer orally or in writing, that said work is ready for inspection. Such notification shall be given not less than forty-eight (48) working hours before the work is to be inspected (Saturdays, Sundays and holidays excluded).

It shall be the duty of the person doing the work authorized by the permit to make sure that the work will stand the test prescribed before giving the above notification.

SEC. 11-3.259 TESTS. Upon completion of the work, the City Engineer may require the house sewer to be subjected to appropriate tests, such as a water test or video test/inspection. The pressure for a water test shall be that imposed by a five foot head of water. The house sewer shall be plugged before test at a point just before conversion is made to public sewer or place of disposal. Under test the water pressure shall remain constant for not less than fifteen (15) minutes without any further addition of water or indication of leaks.

The video camera and recording equipment used for video testing shall be suitable for the intended purpose and shall be equipment that is in common use at the time of the test. A complete and continuous taped record and written log of the inspection shall be made. The taped

record shall be of such quality as to provide a clear, sharp image when played back on a conventional television set. The taped record shall conform to the Owner's video recorder requirements. The image shall show sufficient detail to determine cracks in the pipe, offset joints, leaking joints, and other flaws in the installation of the sewer main. The video taping shall be done with no flow in the sewer.

SEC. 11-3.260 MATERIALS AND LABOR FOR TEST. The equipment, material, power or labor necessary for the inspection and test, shall be furnished by the person doing the work authorized by the permit. All video taping shall be done in the presence of a City of Hayward engineer or construction inspector. Upon completion of the video taping, the tape shall be replayed for the City of Hayward engineer or construction inspector. Any tapes not meeting the quality standards stated in Section 11-3.259 will be rejected and the taping process repeated.

SEC. 11-3.261 EXCAVATIONS. All excavations required to be made for the installation of a sewerage system, or part thereof, within or without a building shall be kept open until the piping has been tested, inspected and approved.

If any sewerage system or part thereof is covered or concealed before being regularly inspected, tested and approved, as herein prescribed, it shall be exposed upon the direction of the City Engineer.

All excavations shall be backfilled in accordance with the requirements of Section 35 of the City of Hayward STANDARD SPECIFICATIONS AND STANDARD DETAILS FOR PUBLIC WORKS CONSTRUCTION adopted by City Council in 1966 and as subsequently revised by City Council.

QUALITY AND WEIGHT OF MATERIALS

SEC. 11-3.300 MINIMUM STANDARDS. All materials used and all joints made in or entering into the construction of sewerage systems or parts thereof shall be watertight and free from defects. The materials and joints specified in this Code are the minimum approved standards that shall be used. All materials used shall be of adequate strength and durability and of such design as to provide a substantial watertight system free from irregularities in flow lines.

SEC. 11-3.301 MARKINGS. Each length of ductile iron soil pipe and each ductile iron fitting used in a sewerage system shall be stamped or indelibly marked with the weight or grade thereof and the maker's mark or name.

SEC. 11-3.302 VITRIFIED CLAY PIPE AND FITTINGS. Vitrified clay pipe and fittings shall meet the minimum requirements of the current specifications for Extra Strength Unglazed Clay Pipe of the American Society for Testing Materials, Designation: A74-66 or the United States Department of Commerce Standard for Service Weight Cast Iron Soil Pipe and Fittings, Designation Commercial Standard DS188-66 as amended.

SEC. 11-3.303 POLYVINYL CHLORIDE (PVC) PIPE. Pipe, fittings, couplings, and joints shall meet the minimum requirements of ASTM Designation D3034 as they apply to type SDR-26 PVC pipe.

SEC. 11-3.304 DUCTILE IRON PIPE (DIP) AND FITTINGS. All ductile iron pipe shall meet the minimum requirement of ANSI Standard A 21.50 and A 21.51 (AWWA C150 and C151), and shall be polyethylene lined and seal-coated in conformance with the requirements of ANSI Standard A 21.4 (AWWA C104). Thickness Class shall be Number 50 for 6-inch through 36-inch diameter pipe, and Number 51 for four-inch and smaller diameter pipe. The pipe shall be wrapped with black 8-mil-thick polyethylene conforming to the requirements of AWWA C105.

The outside coating shall be minimum of 1 mil bituminous paint according to ANSI/AWWA C151/A21.51 Section 51-8.1. Prior to lining, the exterior and interior of the spigot end, including the spigot face, shall be coated with a minimum of 8 mils of epoxy.

Before lining the inside of the socket, including a portion of the gasket cavity and a portion of the pipe barrel shall be coated with a minimum of 8 mils of epoxy.

Fittings shall be ductile iron, at least Class 54 thickness, and in accordance with the requirements of either ANSI/AWWA C153/A21.53 or ANSI/AWWA C110/A21.10. Mechanical joints shall conform to ANSI/AWWA C111/A21.11.

SEC. 11-3.305 HIGH DENSITY POLYETHYLENE (HDPE) PIPES AND FITTINGS (for Trenchless Pipe Replacement/Enlargement). HDPE shall be SDR-17 or lower Extra High Molecular Weight, High Density Polyethylene PE 3408, Type III, Grade P34, Cell Class PE345434C, D, or E (inner wall shall be light in color). All pipe and fittings shall conform to ASTM D3350 and ASTM F714-85. Certification shall be signed by an authorized agent of the manufacturer. A report of test results shall be furnished if requested by the City. The date that the pipe was manufactured shall be included in the certification.

All pipe and fitting materials shall meet the requirements for Type III, Class B, Category 5, Grade P34 material as described in ASTM D1248. The pipe shall contain no recycled compound except that generated in the manufacturer's own plant from resin of the same specification from the same raw material pipe. Pipe and fittings shall be homogeneous throughout and free of: 1) serious abrasion, cutting or gouging of the outside surface extending to more than 10 percent of the wall thickness in depth; 2) visible cracks; 3) kinking caused by excessive or abrupt bending; 4) flattening; 5) holes; 6) blisters; and 7) foreign inclusions or other injurious defects. They shall be uniform in color, opacity, density, and other physical properties. The average outside and wall thickness of pipe and fittings shall be in accordance with ASTM D2122.

SEC. 11-3.306 CLEANOUT FITTINGS. Each cleanout shall consist of a wye of the same material as the building sewer in which it is installed and fitted with a watertight removal plug of the same material as the building sewer pipe. Each cleanout shall extend a minimum of three (3) inches above grade and shall consist of an extension of ductile iron soil pipe from the cleanout wye to the ground surface and fitted with a ductile iron ferrule and a brass plug.

SEC. 11-3.307 BACKWATER AND GATE VALVES. Backwater valves shall have cast iron bodies, with bearing parts of non-corrosive metal or material, be so constructed as to insure a positive mechanical seal and remain closed except when discharging wastes. Backwater valves shall be so designed as to not cause a restriction of flow or deposit of solids. Valve access-cover shall be installed in an approved manner so as to be readily accessible at all times.

Gate valves, when used on drainage work, shall be fullway type with working parts of non-corrosive metal. Sizes four (4) inches or more in diameter shall have cast iron bodies, and sizes of less than four (4) inches, cast iron or brass bodies.

SEC. 11-3.308 APPROVED MATERIALS AND METHODS. Repairs to sewerage systems shall be made with such materials and by such methods as is provided for by this Article for new work, insofar as it is practical so to do.

SEC. 11-3.309 WORKMANSHIP. All workmanship shall be of such character as to fully secure the results sought to be obtained in all sections of this Code.

SEC. 11-3.310 PROTECTION OF MATERIALS. All pipes passing under or through walls, shall be protected from breakage. All pipes passing through or under cinders, concrete, or other corrosive materials, shall be protected from external corrosion in an approved manner.

SEC. 11-3.311 NEW MATERIALS AND METHODS OF CONSTRUCTION. The provisions of this Article are not intended to prevent the use of any material or any method of construction not specifically prescribed herein, provided any such alternate has been approved and its use authorized by the City Engineer. The City Engineer may approve any such alternate provided it is found that the proposed design is satisfactory and complies with the intent of this Article, and that the material or method of work offered is for the purpose intended, at least the equivalent of that here prescribed in quality, strength, effectiveness, durability and safety. The City Engineer shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding the sufficiency of any such proposed material or type of construction.

BUILDING SEWERS AND CONNECTIONS TO PUBLIC SEWER

SEC. 11-3.350 BUILDING COURT MAIN SEWER. A building court main sewer shall be not less than eight inches in diameter and shall be laid at uniform grade and in straight alignment; a standard manhole shall be installed at the end of all building court mains.

A building court main serving not more than ten dwelling units or the equivalent shall be connected to the public sewer at a wye branch and may be laid at a minimum slope of .006 feet per foot. Manholes shall be installed per City Standard Details.

A building court main serving more than ten dwelling units or the equivalent may be laid at a minimum slope of .004 feet per foot. Manholes shall be installed in the following locations:

- (1) At the connection to the public sewer;
- (2) At any change in direction or grade; and
- (3) At intervals not to exceed 400 feet.

Two sets of drawings prepared by a Registered Civil Engineer showing plan and profile of the proposed installation shall be submitted for approval. Grades for building court main

sewers shall be staked by a Licensed Land Surveyor or Registered Civil Engineer, authorized to practice land surveying in the State of California, in accordance with the approved drawings.

Building court house sewers shall meet the requirements for house sewers.

SEC. 11-3.351 SEPARATE SEWERS. A separate and independent building sewer shall be provided for every building with the following exceptions:

- (1) Where there is a building in the rear of a lot and there is to be an additional building built directly in front of said building, then the same building sewer may serve both buildings. The same rule shall apply where the conditions are reversed and the front building is built first, or where both buildings are built at the same time.
- (2) Where two single-family dwellings are on the same parcel and the frontage of said parcel does not exceed seventy-five (75) feet, separate connections are not required.
- (3) A group of buildings constituting a building court by definition may be connected to a building court main sewer.
- (4) The City Council (as to a preliminary plan for a planned development) or the City Council, the Planning Commission, or the Director of Public Works (in case of a subdivision map), may approve the use or installation of either a building court main or sewer lateral which serves buildings on separate parcels if findings are made pursuant to subsection (a) or (b) and the applicant complies with the requirements of subsection (c).
 - a. It is determined that it is either financially or otherwise disadvantageous for the City to maintain such sewer as a public sewer; or
 - b. In the case of an existing sewer lateral or building court main, it is uneconomical to alter the existing plumbing on the parcel(s) to provide for separate sewer lateral connections into a public sewer main due to topographical or other engineering considerations.
 - c. An easement appurtenant, declaration of covenants, or other instrument satisfactory to the Director of Public Works and City Attorney shall be recorded. Such instrument shall contain the following provisions:
 - (i) A description of the private building court main or private sewer lateral(s);
 - (ii) Mutual access easements or covenants describing the maintenance and repair obligations of the owners of the affected parcels; and

- (iii) Indicating that any maintenance related work on the subject building court main or private sewer lateral(s) which may be performed by the City shall be payable by the affected property owner(s). Any unpaid amounts may be collected or recorded as a lien against such properties in accordance with

Section 11-3.107 which is hereby incorporated by reference.

SEC. 11-3.352 INDUSTRIAL SEWERS.

- a. All building sewers henceforth installed to serve buildings located in any industrial areas in the City, such as Industrial (I) Zoned Districts or Limited Industrial (LI) Zoned Districts, shall be provided with approved-design monitoring access structures or alternate access approved by the Director of Public Works;
- b. Notwithstanding the provisions of Section 11-3.351, a separate building sewer, including approved-design monitoring access, shall be provided for any user which discharges industrial wastewater of any quantity or description or any combination of industrial wastewater and domestic wastewater. The separate sewer must enable the discrete monitoring of the discharge for the purpose of determining compliance with Appendix A, Wastewater Discharge Regulations, or provisions of federal law and must enable the discrete termination of sewer service in the event that this becomes necessary as provided in the regulations;
- c. Monitoring access structures required under this section shall be maintained by the building owners and/or lessee in safe and usable conditions at all times.

SEC. 11-3.353 USE OF EXISTING SEWERS. Old building sewers may be used in connection with new buildings only when it has been tested in accordance with Sec. 11-3.259 and determined by the City Engineer to meet all requirements of this Article.

SEC. 11-3.354 BUILDING SEWER. The building sewer shall be vitrified clay sewer pipe, polyvinyl chloride pipe, or, in special circumstances, lined ductile iron pipe or other suitable material approved by the City Engineer. Joints shall be tight and water proof. Water service pipes or any underground water pipes shall not be run or laid in the same trench with building sewer or drainage piping, except as provided in this section. The water service pipe may be placed in the same trench with such building drain and building sewer, provided both of the following conditions are met:

- (1) The bottom of the water service pipe, at all points, shall be at least 12 inches above the top of the sewer line; and
- (2) The water service pipe shall be placed on a solid shelf excavated at one side of the common trench.

Lined ductile iron, polyvinyl chloride pipe, or other suitable pipes may be required by the City Engineer due to special circumstances, such as the building sewer being is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of lined ductile iron pipe.

SEC. 11-3.355 SIZE AND SLOPE - BUILDING SEWER. The size and slope of the building sewer shall be subject to the approval of the City Engineer and the size shall be not less than that at the house drain and in no event shall the diameter be less than four (4) inches. The slope of such 4-inch pipe shall be not less than one-quarter (1/4) inch per foot. If the slope must be less than one-quarter (1/4) inch per foot, the building sewer must be not less than six (6) inches in diameter. The slope of such 6-inch pipe shall be not less than one-eighth (1/8) inch per foot.

SEC. 11-3.356 ELEVATION - BUILDING SEWER. Whenever possible the building sewer shall be brought to the building at an elevation below the lowest floor being served. No building sewer shall be laid parallel and within the soil bearing area of the footing of any bearing wall which might be weakened thereby. The depth shall be sufficient to afford a minimum of thirty (30) inch cover for non-metallic pipe. The building sewer shall be laid at uniform grade and in straight alignment. Where direct alignment is not practical, one change in alignment not to exceed 22-1/2 degrees may be made in the portion of the house sewer within the lot boundaries. Approved curved pipe and fittings shall be used. Any additional change in alignment shall be served by a cleanout.

SEC. 11-3.357 SEWAGE LIFT. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved electromechanical means and discharged to the building's sewer.

SEC. 11-3.358 JOINTS AND CONNECTIONS. All joints and connection shall be made gas-tight and water-tight.

Joints in vitrified clay pipe shall be of the flexible compression type meeting the minimum requirements of the current specification of the American Society for Testing Materials, Designation: C425-66T, as currently amended.

Joints in polyvinyl chloride pipe shall be of the mechanical compression type using an elastomeric gasket joint, furnished with the pipe by the pipe manufacturer.

Couplings connecting dissimilar pipe shall be of the mechanical compression type, such as "band seal," "calder," "ceramic-weld," or approved equal.

Cement joints will not be permitted. Other jointing materials and methods may be used only on approval of the City Engineer.

SEC. 11-3.359 BUILDING SEWER CONNECTION TO PUBLIC SEWER. The connection of the building sewer into the public sewer shall be made in the following manner:

If the diameter of the building sewer is equal to the diameter of the public sewer, connection shall be made at a wye branch in the public sewer at a location specified by the City Engineer.

When the diameter of the building sewer is less than the diameter of the public sewer and no properly located wye branch is available, a neat hole may be cut into the public sewer to receive the building sewer and shall be fitted with a special saddle connection. The saddle connection shall be equipped with complete annular shoulder to prevent it from slipping into the

public sewer; it shall protrude into the wall, but shall not exceed past the inner surface of the public sewer. The saddle adapter shall be securely fastened in place by a minimum of four (4) complete turns of 10 gauge galvanized iron or copper wire wrapped entirely around the saddle and the public sewer. A smooth neat joint shall be made and the annular space between the spigot of the saddle and the edges of the hole in the public sewer shall be filled with cement mortar, and the entire connection made secure and watertight by encasement in concrete.

Other special fittings may be used for connection only when approved by the City Engineer.

The top of pipe of the building sewer at the point of connection shall be at the same or at a higher elevation than the top of pipe of the public sewer.

EXCEPTION. Interceptor sewers of reinforced concrete pipe eighteen (18) inches or larger in diameter may not have direct connections. The building sewer shall then be connected to an eight (8) inch main laid parallel to the interceptor and connected at the nearest manhole.

The portion of the building sewer in the street shall be at right angles to the right of way lines and at least three (3) feet below the curb grade. Provided that when it is necessary to install a building sewer in the street less than three (3) feet below the curb grade, the same must be covered with at least six (6) inches of concrete to protect the same from breakage, or shall be of cast iron pipe.

The applicant for the building sewer permit shall notify the City Engineer when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City Engineer.

SEC. 11-3.360 BUILDING SEWER MAINTENANCE. Maintenance of the building sewer shall be the responsibility of the owner of the property served.

SEC. 11-3.361 CLEANOUTS. Cleanouts shall be placed in every building sewer at the connection with the building drain and shall be installed at uniform intervals not to exceed one hundred (100) feet.

SEC. 11-3.362 BACK WATER PROTECTION. If the lowest fixture or outlet in any building is below the rim elevation of the nearest manhole, cleanout, or riser upstream from the connection to the public sewer, a backwater valve or overflow device of an approved type shall be installed in the building sewer.

USE OF PUBLIC SEWERS

SEC. 11-3.400 WASTEWATER DISCHARGE REGULATIONS. Appendix 'A' entitled 'Wastewater Discharge Regulations of the City of Hayward,' attached hereto and by such reference incorporated herein and made a part hereof as though set forth in full, is hereby adopted as the Wastewater Discharge Regulations of the City of Hayward for the purposes stated therein.

SEC. 11-3.401 VARIANCE FROM REGULATIONS. A User may petition the City Council of the City of Hayward for a waiver or mitigation of the requirements of the Wastewater Discharge Regulations if the User anticipates unique or unforeseen inequities or problems in the strict compliance with the Wastewater Discharge Regulations. However, the City Council shall not approve any waiver or mitigation of the Wastewater Discharge Regulations if such a waiver or mitigation of Wastewater Discharge Regulations would contravene any federal pretreatment regulation, federal categorical discharge standards, or other provision of federal law.

SEC. 11-3.402 SWIMMING POOLS Connection between the municipal sewer system and a swimming pool shall be subject to the following requirements:

When the waste water from a swimming pool is to be disposed of through a public sewer, a four (4) inch cast iron P trap shall be installed on the lower terminus of the building drain and the tail piece from the trap shall extend a minimum of three (3) inches above the finished grade and below the finished floor grade. The connection between the filter waste discharge piping and the P trap shall be made by means of an indirect connection.

Plans and specifications for any deviation from the above manner of installation shall first be approved by the City Engineer before any portion of any such system is installed.

SEC. 11-3.403 UNAUTHORIZED CONNECTION TO PUBLIC SANITARY SEWER SYSTEM. The establishment, use, maintenance, or continuation of a connection to the public sanitary sewer system that has not been approved and permitted in accordance with requirements of this Ordinance is strictly prohibited.

If the City becomes aware of an unauthorized connection to the public sanitary sewer system, the City may require, at its sole discretion, any or all of the following abatement actions:

- (1) That the discharge to the connection cease immediately or within the time specified by the City.
- (2) That the unauthorized connection be temporarily or permanently disabled, with a seal or other means approved by the City, within a time specified by the City.
- (3) That the City be granted access as needed to monitor discharge from the unauthorized connection.

The City may, at its discretion, require that the user of the unauthorized connection pay all costs of collection, treatment, and disposal of estimated wastewater discharged from the unauthorized connection, in rates in effect at the time that the connection is detected, plus a 50 percent surcharge. The City shall determine the estimated quantity of wastewater discharged for purposes of billing.

The user of the unauthorized connection shall also be responsible for costs relating to the detection and abatement of the unauthorized connection, as well as the costs related to any process upset or interference, or discharge in excess of permitted limits from the Water Pollution Control Facility, recoverable through the procedures set forth in sections 11-3.105, et seq.

In the event of subsequent City approval of an application for permit to connect the unauthorized sewer connection, the permit shall be conditioned upon the applicant's payment of double the sewer connection fees and permit fees in effect at the time the connection is conditionally permitted.

SEWER SERVICE CHARGES

SEC. 11-3.450 SEWER SERVICE CHARGES. For the privilege of using the sewage collection and treatment system, the User shall pay periodic service charges to cover the costs of operating and maintaining the sewer collection and treatment system, including replacement. Sewer service charges shall take into account the demands placed on the system by user groups. Sewer service charges shall be adopted from time to time by resolution of the Hayward City Council.

SEC. 11-3.451 BASIS OF CHARGE FOR SEWER SERVICE. Except as hereinafter provided, sewer service charges shall be based on the estimated cost for collecting and treating wastewater discharged into the municipal sewer system and the capital cost of replacing the process elements and facilities of the wastewater treatment plant and the existing sanitary sewer collection system.

The basis for determining the cost for treating and collecting wastewater will be the "service unit" which will be considered for the purpose of this article to be the basic charge for each premises computed on the basis of treating wastewater for the typical single family residence. The unit cost per service unit for sewer service fees shall be as specified from time to time by resolution of the Hayward City Council.

Each standard residential living unit served by an individual water meter whose water consumption for a regular bimonthly billing period is less than eleven hundred (1100) cubic feet but more than five hundred (500) cubic feet shall be charged at the "Economy" rate as determined from time to time by resolution of the City of Hayward.

Each standard residential living unit served by an individual water meter whose water consumption for a regular bimonthly billing period is five hundred (500) cubic feet or less shall be charged at the "Lifeline" rate as determined from time to time by resolution of the City of Hayward.

SEC. 11-3.452 REVIEW OF RATES. The rates for the sewer service charges shall be reviewed each year in preparation for the annual budget by the City Council to assure the collection of sufficient revenue to defray all expenses incurred in the maintenance and operation of the sewage treatment and collection facilities of the City.

SEC. 11-3.453 STANDARD RESIDENTIAL LIVING UNIT. Each standard residential living unit shall be considered as one (1) service unit per month for the purpose of determining the applicable sewer service charge.

SEC. 11-3.454 MULTIPLE RESIDENTIAL LIVING UNIT. Each multiple residential living unit shall be considered as that portion of a service unit per month for the purpose

of determining the applicable sewer service charge as may be determined from time to time by resolution of the Hayward City Council.

SEC. 11-3.455 COMMERCIAL AND INDUSTRIAL UNIT. The service units for commercial and industrial premises shall be based on categories of usage with similar treatment costs and grouped into User Classification Codes. The categories of usage, user classification codes, and service units to be applied per month for the purpose of determining the applicable sewer service charges shall be those as determined from time to time by resolution of the Hayward City Council.

Sewer service charges for commercial and industrial users defined as “Unclassified Users” in Appendix A, Wastewater Discharge Regulations, shall be based on measured discharges of wastewater, carbonaceous biochemical oxygen demand, and suspended solids. Frequency of monitoring shall be determined by the City.

SEC. 11-3.456 MOBILE HOME UNIT. Each mobile home unit shall be considered as that portion of a service unit per month for the purposes of determining the applicable sewer service charge as may be determined from time to time by resolution of the Hayward City Council.

SEC. 11-3.457 SEWER SERVICE CHARGE. BILLING. Each sewer service charge shall become due and payable to and at the Revenue Division of the Finance Department on the date stated in the bill for payment thereof and shall become delinquent on the 15th day after said stated date.

All bills for such fees shall be issued by the Revenue Division. They shall be combined with bills or statements for water service rendered by the Municipal Water System in all cases where the premise in question is connected to the Municipal Water System. The bills shall state their purpose (water and sewer service), shall give the name and last known address of the Person responsible for payment, and shall list separately the fee for water service and the total fee for both services. Neither fee may be paid separately from the other. If a premise with sewer service is not connected with the Municipal Water System, a separate bill shall be rendered for sewer service only.

SEC. 11-3.458 PERSONS RESPONSIBLE FOR PAYMENT. In the case of any person whose premise is connected with the Municipal Water System, the person responsible for payment shall be that person who requested such connection to the Municipal Water System, the successor in interest, or any person, persons or legal entity requesting that such bill be charged to them.

In the case of any person whose premise is not connected to the Municipal Water System, the person responsible for payment shall be that person who requested the connection to the Municipal Sewer System, the successor in interest, or if no such request is made, then to the owner of record of such premise on the date on which such premise is required hereby to connect to the Municipal Sewer System, the successor in interest to such person, or any person, persons or legal entity requesting that such bill be charged to them.

SEC. 11-3.459 SEWER SERVICE CHARGE. LIEN. Each sewer service charge levied by or pursuant to this Article on any premise within the City limits is hereby made a lien upon such premise and any steps authorized by law may be taken by the City to enforce payment of such lien.

SEC. 11-3.460 DISCONNECTION OF SERVICE. In each case where any bill for both water service and sewer service remains unpaid for fifteen (15) days after the date stated in such bill for payment, such bill shall become delinquent and the Director of Public Works shall disconnect the premise from the Municipal Water System. The Director of Public Works may also disconnect the premise from the Municipal Sewer System. Such action will be taken in accordance with noticing requirements of the State of California Public Utilities Commission.

Whenever a premise has been disconnected from either the Municipal Water System or the Municipal Sewer System for non-payment of water or sewer service fees, such premise shall not be reconnected to either the Municipal Water System or the Municipal Sewer System until all delinquent fees and penalties have been paid, together with such reasonable charges for reconnection as may be ordered from time to time by the City Council by resolution duly adopted, or until payment arrangements have been approved by the Revenue Manager.

SEWER MAIN EXTENSIONS

SEC. 11-3.500 EXTENSION OF SEWER MAIN FACILITIES. Sewer main facilities may be extended by an applicant in accordance with plans and specifications approved by the City Engineer. The applicant shall deposit an amount which when added to any previous deposits on the same application is equal to all estimated inspection costs. Engineering costs plus an administrative charge equal to three percent (3%) of the total cost of installation shall be deposited before applicant begins such work.

SEC. 11-3.501 PARCEL FRONTAGE EXTENSION FOR SEWER MAINS. Where a main is to be extended to serve a parcel, said main shall extend the full frontage of said parcel unless it is determined by the City Engineer that the main is not likely to be extended to serve any other property.

SEC. 11-3.502 MINIMUM SIZE OF SEWER MAIN. The inside diameter of every sewer main to be installed shall be not less than eight (8) inches except as may be determined by the City Engineer.

SEC. 11-3.503 APPLICANT TO FILE SURETY BOND. In the event the applicant installs sewer main extension facilities, the applicant shall furnish the City of Hayward a surety company bond in an amount equal to at least one-half of the City Engineer's estimate of the installation costs to guarantee faithful performance by the applicant, and a surety company bond in an equal amount to guarantee claims of persons employed by applicant and claims of persons who furnish materials, supplies and implements used by applicant on such work.

SEC. 11-3.504 SEWER MAIN EXTENSION FACILITIES - BILL OF SALE. When sewer main extension facilities are installed and upon the execution and delivery by applicant of a good and sufficient bill of sale of said facilities to the City of Hayward, sewer service shall be furnished to applicant's property.

SEC. 11-3.505 BENEFIT DISTRICT - SEWER MAIN EXTENSIONS. Upon recommendation by the City Engineer that a sewer main extension may benefit not only the property

being served initially but also other property, the City Council may adopt a resolution to initiate proceedings to form a “local improvement benefit district.” Such proceedings shall be implemented in strict accordance with Chapter 8, Article 16, of the Hayward Municipal Code.

APPENDIX "A"

WASTEWATER DISCHARGE REGULATIONS
OF
THE CITY OF HAYWARD

Chapter 1
GENERAL PROVISIONS

1.01 Purpose and Policy. These Wastewater Discharge Regulations impose requirements for discharges into the wastewater collection and treatment systems and enable the Agency to comply with the administrative provisions of the Clean Water Grant Regulations, the water quality requirements set by the Regional Water Quality Control Board and the applicable effluent limitations, national standards of performance, toxic and pretreatment effluent standards, and any other discharge criteria which are required or authorized by state or federal law, and to derive the maximum public benefits by regulating the quality and quantity of wastewater discharged into the East Bay Dischargers Authority system. These regulations provide a means for determining wastewater volumes, the setting of user charges and fees for the equitable distribution of costs to all users, and the issuance of permits to certain users. Revenues derived from the application of these regulations shall be used to defray the Agency's costs of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for capital outlay, bond service costs, capital improvements, and depreciation.

1.02 Definitions. Unless otherwise defined herein, terms shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

- (a) Agency. The City of Hayward.
- (b) Authority. The East Bay Dischargers Authority.
- (c) Beneficial Uses. Uses of the waters of the state that may be protected against quality degradation include, but are not necessarily limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible, as specified by federal or state law.
- (d) Building Sewer. A sewer conveying wastewater from the premises of a user to the community sewer.
- (e) Bypass. The intentional diversion of wastestreams from any portion of a user's treatment facility.

- (f) Community Sewer. A sewer owned and operated by the Agency, a city, or other public agency tributary to a treatment facility operated by the Agency or the Authority.
- (g) Compatible Pollutant. Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the Agency's National Pollutant Discharge Elimination System (NPDES) permit if the publicly owned treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree.
- (h) Contamination. An impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of wastewater, whether or not waters of the state are affected.
- (i) Critical User. A user who is required to obtain a permit, as defined in section 4.02.1.
- (j) Federal Act or Act. The Federal Water Pollution Control Act, PL 92-500, and any amendments thereto; as well as any guidelines, limitations, and standards promulgated by the Environmental Protection Agency pursuant to the Act.
- (k) Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.
- (l) Incompatible Pollutant. Any pollutant which is not a compatible pollutant as defined in this section.
- (m) Interference. A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:
 - (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
 - (2) therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.
- (n) Manager. The manager of the Agency or his or her designated representative.

- (o) Mass Emission Rate. The weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.
- (p) National Pretreatment Standard, Pretreatment Standard, or Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.
- (q) Publicly Owned Treatment Works or "POTW". A treatment works as defined by section 212 of the Act, which is owned by a state or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.
- (r) POTW Treatment Plant. That portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.
- (s) New Source. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307 (c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section and subject to the terms outlined in 40 CFR 403.3(k)(l).
- (t) Nuisance. Anything which is injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
- (u) Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
- (v) Person. Any individual, partnership, firm, association, corporation, or public agency including the State of California and the United States of America.
- (w) Pollution. An alteration of the quality of the waters of the state by waste to a degree which unreasonably affects such waters for beneficial use or facilities which serve such beneficial uses. Pollution may include contamination.
- (x) Premises. A parcel of real estate including any improvements thereon which is determined by the Agency to be a single user for purposes of receiving, using, and

paying for service.

- (y) Severe Property Damage. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (z) Unpolluted Water. Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the Agency having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.
- (aa) User. Any person that discharge, causes, or permits the discharge of wastewater into a community sewer.
- (bb) User Classification. A classification of user based on the latest edition of the Standard Industrial Classification (SIC) Manual prepared by the Executive Office of Management and Budget.
- (cc) Waste. Includes sewage and any and all other waste, substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.
- (dd) Wastewater. Waste and water, whether treated or untreated, discharged into or permitted to enter a community sewer.
- (ee) Wastewater Constituents and Characteristics. The individual chemical, physical, bacteriological and radiological parameters, including volume and flow rates and such other parameters that serve to define, classify or measure the contents, quality, quantity, and strength of wastewater.
- (ff) Waters of the State. Any water, surface or underground, including saline waters within the boundaries of the state.

1.03 Analytical and Sampling Methodology and Procedures.

- (a) The method and procedures utilized for all analyses which are reported under the requirements of these regulations shall be as specified by the provisions of 40 CFR 136, including amendments thereto.
- (b) The methods and procedures utilized for all sampling performed and/or reported under the requirements of these regulations shall be as specified by the provisions of 40 CFR Part 136.

REGULATIONS

2.01 Prohibitions on Discharge. No person shall discharge to a community sewer system wastes which cause, threaten to cause, or are capable of causing, either alone or by interaction with other substances;

- (a) a fire or explosion, including but not limited to discharges with a closed cup flashpoint of less than 140 F (60 C);
- (b) obstruction of flow in a sewer system or injury of the system or damage to the wastewater collection, treatment, or disposal facilities;
- (c) danger to life or safety of personnel;
- (d) a nuisance or prevention of the effective maintenance or operation of the sewer system, through having a strong, unpleasant odor;
- (e) air pollution by the release of toxic or malodorous gases or malodorous gas-producing substances;
- (f) interference with the wastewater treatment process;
- (g) the Agency's effluent or any other product of the treatment process, residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process;
- (h) a detrimental environmental impact or a nuisance in the waters of the state or a condition unacceptable to any public agency having regulatory jurisdiction over the Agency;
- (i) discoloration or any other condition in the quality of the Agency's treatment works effluent in such a manner that receiving water quality requirements established by law cannot be met;
- (j) conditions at or near the Agency's treatment works which violate any statute or any rule, regulation, or ordinance of any public agency or state or federal regulatory body;
- (k) quantities or rates of flow which overload the Agency's collection or treatment facilities or cause excessive Agency collection or treatment costs, or may use a disproportionate share of the Agency facilities.
- (l) The evolution of toxic gases, fumes, or vapors in quantities injurious to the health and safety of Agency personnel.

2.02 Prohibitions on Storm Drainage and Ground Water. Storm water, ground water, rain water, street drainage, subsurface drainage or yard drainage will not be discharged through direct or indirect connections to a community sewer unless a permit is issued by the Agency. The Agency may approve the discharge of such water only when no reasonable alternative method of disposal is available.

If a permit is granted for the discharge of such water into a community sewer, the user shall pay the applicable user charges and fees and meet such other conditions required by the Agency.

2.03 Prohibition on Unpolluted Water. Unpolluted water, including but not limited to cooling water, process water, or blow-down from cooling towers or evaporative coolers, will not be discharged through direct or indirect connection to a community sewer unless a permit is issued by the Agency. The Agency may approve the discharge of such water only when no reasonable alternative method of disposal is available.

If a permit is granted for the discharge of such water into a community sewer, the user shall pay the applicable user charges and fees and shall meet such other conditions as required by the Agency.

2.04 Limitations on Radioactive Wastes. No person shall discharge or cause to be discharged any radioactive waste into a community sewer except:

- (a) when a person is authorized to use radioactive materials by the State Department of Health or other governmental agency empowered to regulate the use of radioactive materials; and
- (b) when the waste is discharged in strict conformity with the requirements of the United States Nuclear Regulatory Commission, the United States Department of Energy, and/or the California Radiation Control Regulations; and
- (c) when the person is in compliance with all rules and regulations of all other applicable regulatory agencies.

2.05 Limitations on the Use of Garbage Grinders. Waste from garbage grinders shall not be discharged into a community sewer except:

- (a) wastes generated in preparation of food normally consumed on the premises;
or
- (b) where the user has obtained a permit for that specific use from the Agency, and agrees to undertake whatever self-monitoring is required to enable the Agency to equitably determine the user charges based on the waste constituents and characteristics.

Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the community sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials, or garden refuse.

2.06 Limitations on Points of Discharge. No person shall discharge any substances directly into a manhole or other opening in a community sewer other than through an approved building sewer unless, upon written application by the user and payment of the applicable user charges and fees, the Agency issues a permit for such direct discharges.

2.07 Holding Tank Waste. A user proposing to discharge holding tank waste in excess of 50 gallons per week into a community sewer must secure a permit. Unless otherwise allowed by the Agency under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. This permit will state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and the wastewater constituents and characteristics. If a permit is granted for discharge of such waste into a community sewer, the user shall pay the applicable user charges and fees and shall meet such other conditions as required by the Agency.

2.08 Limitations on Wastewater Strength.

2.08.1 No person shall discharge wastewater containing in excess of:

- 1.0 mg/L arsenic
- 0.2 mg/L cadmium
- 2.0 mg/L copper
- 0.6 mg/L cyanide
- 1.0 mg/L lead
- 0.01 mg/L mercury
- 1.0 mg/L nickel
- 0.5 mg/L silver
- 2.0 mg/L total chromium
- 3.0 mg/L zinc

2.08.2 No person shall discharge any wastewater:

- (a) having a temperature higher than 150° F (65.5° C), or any thermal discharge which as a result of temperature and/or volume causes the influent of the wastewater treatment plant to exceed 104° F (40° C);
- (b) containing more than 300 mg/L of oil or grease of animal or vegetable origin, unless a higher limit is established by permit when all of the following conditions are met:
 - (1) The oil and grease is discharged in an emulsified or other form which, in the opinion of the Agency, poses no threat to clogging of the wastewater collection system;
 - (2) The oil and grease, in the opinion of the Agency, poses no threat to the operation of the wastewater treatment plant; and
 - (3) The oil and grease, in the opinion of the Agency, is amenable to removal and treatment by the processes utilized by the wastewater treatment plant;
- (c) containing more than 100 mg/L of oil or grease of mineral or petroleum origin;
- (d) having a pH lower than 6.0;
- (e) containing in excess of 2.0 mg/L Total Toxic Organics (TTO), measured as the sum of:

1. Acenaphmene
2. Acrolein
3. Acrylonitrile
4. Benzene
5. Benzdine
6. Carbon tetrachloride (tetrachloromethane)
7. Chlorobenzene
8. 1,2,4-trichlorobenzene
9. Hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichloroethane
12. Hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. Chloroethane
17. Bis (2-chloroethyl) ether
18. 2-chloroethyl vinyl ether (mixed)
19. 2-chloronaphthalene
20. 2,4,6-trichlorophenol
21. Parachlorometa cresol
22. Chloroform (trichloromethane)
23. 2-chlorophenol
24. 1,2-dichlorobenzene
25. 1,3-dichlorobenzene
26. 1,4-dichlorobenzene
27. 3,3 dichlorobenzidine
28. 1,1-dichloroethylene
29. 1,2-trans-dichloroethylene
30. 2,4-dichlorophenol
31. 1,2-dichloropropane
32. 1,3-dichloropropylene (1,3-dichloropropene)
33. 2,4-dimethylphenol
34. 2,4-dinitrotoluene
35. 2,6-dinitrotoluene
36. 1,2-diphenylhydrazine
37. Ethylbenzene
38. Fluoranthene
39. 4-chlorophenyl phenyl ether
40. 4-bromophenyl phenyl ether
41. Bis (2-chloroisopropyl) ether
42. Bis (2-chloroethoxy) methane
43. Methylene chloride (dichloromethane)
44. Methyl chloride (chloromethane)
45. Methyl bromide (bromomethane)
46. Bromoform (tribromomethane)
47. Dichlorobromomethane
48. Chlorodibromomethane

49. Hexachlorobutadiene
50. Hexachlorocyclopentadiene
51. Isophorone
52. Naphthalene
53. Nitrobenzene
54. 2-nitrophenol
55. 4-nitrophenol
56. 2,4-dinitrophenol
57. 4,6-dinitro-o-cresol
58. N-nitrosodimethylamine
59. N-nitrosodiphenylamine
60. N-nitrosodi-n-propylamine
61. Pentachlorophenol
62. Bis (2-ethylhexyl) phthalate
63. Butyl benzyl phthalate
64. Di-n-butyl phthalate
65. Di-n-octyl phthalate
66. Diethyl phthalate
67. Dimethyl phthalate
68. 1,2-benzanthracene (benzo(a)anthracene)
69. Benzo(a)pyrene (3,4-benzopyrene)
70. 3,4-Benzofluoranthene (benzo(b)fluoranthene)
71. 11,12-benzofluoranthene (benzo(k)fluoranthene)
72. Chrysene
73. Acenaphthylene
74. Anthracene
75. 1,12-benzoperylene (benzo(ghi)perylene)
76. Fluorene
77. Phenanthrene
78. 1,2,5,6-dibenzanthracene (dibenzo(a,h)anthracene)
79. Indeno (1,2,3-cd) pyrene (2,3-o-phenylene pyrene)
80. Pyrene
81. Tetrachloroethylene
82. Toluene
83. Trichloroethylene
84. Vinyl chloride (chloroethylene)

- (f) containing in excess of 5.0 mg/L Phenol
- (g) containing any trace of pesticides, poly-chlorinated biphenyls (PCBs) and dioxins (TCDDs) as determined by EPA-approved analytical methodologies for these compounds:
1. Aldrin
 2. Dieldrin
 3. Chlordane (technical mixture and metabolites)
 4. 4,4-DDT
 5. 4,4-DDE(p,p-DDX)
 6. 4,4-DDD(p,p-TDE)

7. Alpha-endosulfan
8. Beta-endosulfan
9. Endosulfan sulfate
10. Endrin
11. Endrin aldehyde
12. Heptachlor
13. Heptachlor epoxide
14. (BHC-hexachlorocyclohexane)
15. Alpha-BHC
16. Beta-BHC
17. Gamma-BHC
18. Delta-BHC
19. (PCB-polychlorinated biphenyls)
20. PCB-1242 (Arochlor 1242)
21. PCB-1254 (Arochlor 1254)
22. PCB-1221 (Arochlor 1221)
23. PCB-1232 (Arochlor 1232)
24. PCB 1248 (Arochlor 1248)
25. PCB-1260 (Arochlor 1260)
26. PCB-1016 (Arochlor 1016)
27. Toxaphene
28. 2,3,7, 8-tetrachlorodibenzo-p-dioxin (TCDD)

for groundwater remediation permits only, the following special limits apply:

- (h) containing in excess of 5.0 mg/L total petroleum hydrocarbons-gasoline or diesel;
- (i) containing in excess of 0.5 mg/L the sum of benzene, ethyl benzene, toluene, xylene.

2.08.3 Effluent limitations promulgated by the federal Act shall apply in any instance where they are more stringent than those in these regulations. Under section 307 (b) and (c) of the Act, federal pretreatment standards are designed to achieve two purposes: (1) to protect the operation of publicly owned treatment works, and (2) to prevent the discharge of pollutants which pass through such works inadequately treated. Users in industrial categories subject to effluent guidelines issued under section 304(b) of the Act which are discharging incompatible pollutants to publicly owned treatment works are required to adopt best control technology currently available, as defined by *the* U.S. Environmental Protection Agency administrator pursuant to section 304(b) of the Act.

2.09 Prohibition on Slug Discharges. No user shall discharge any pollutant, including oxygen-demanding pollutants, at a flow rate and/or pollutant concentration which causes or threatens to cause interference with the wastewater treatment process. For the purposes of this section, any discharge which, in concentration or quantity of flow, exceeds for any period more than ten times the average 24-hour concentration or flow rate during normal operation shall be deemed a slug discharge which threatens to cause interference with the wastewater treatment process.

2.10 Use of Dilution Prohibited. Except where expressly authorized to do so by an

applicable pretreatment standard or requirement, no user shall increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with a pretreatment standard, requirement or discharge limitation. The Agency may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

2.11 Prohibition of Bypass.

- (a) Bypass is prohibited and the Agency may take enforcement action against any user for bypass unless:
 - (i) bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (iii) the industrial user submitted notices as described in 40 CFR 403.17(c).
- (b) The Agency may approve an anticipated bypass, after considering its adverse affects, if the Agency determines that it will meet the three conditions specified in part (a) of this section.

2.12 Prohibition on Discharge of Process Solution Tanks. No user shall, without prior and explicit approval of the Agency, discharge the contents, in whole or part, of any process solution tank to the sewer system. For the purposes of this section, such materials include, but are not limited to, concentrated solutions utilized within any commercial or industrial operation, containerized liquids of any description whatsoever, spoiled or otherwise unusable raw materials of any description whatsoever, spoiled or otherwise unusable products of any description whatsoever.

2.13 Prohibition on Discharge of Petroleum or Mineral Oil Causing Pass-through or Interference. Notwithstanding the provisions of section 2.08.2(c), no user may discharge petroleum oil, non-biodegradable cutting oil or other products of mineral origin in any amount that causes interference or pass-through.

2.14 Prohibition of the Discharge of Trucked or Hauled Wastes. The discharge of any trucked or otherwise hauled wastes to the sanitary sewer system is prohibited except as the Agency may permit under the provisions of section 2.07.

3.01 Metered Water Supply. User charges and fees shall be applied against the total amount of water used from all sources unless, in the opinion of the Agency, significant portions of water received are not discharged to a community sewer. The total amount of water used from public and private sources will be determined by means of public meters or private meters, installed and maintained at the expense of the user and approved by the Agency.

3.02 Metered Wastewater Volume and Metered Diversions. For users where, in the opinion of the Agency, a significant portion of the water received from any metered source does not flow into a community sewer because of the principal activity of the user or removal by other means, the user charges and fees will be applied against the volume of water discharged from such premises into a community sewer. Written notification and proof of the diversion of water must be provided by the user if the user is to avoid the application of the user charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the Agency and at the user's expense. Such meters may measure either the amount of sewage discharged or the amount of water diverted. Such meters shall be tested for accuracy at the expense of the user when deemed necessary by the Manager.

3.03 Estimated Wastewater Volume.

3.03.1 Users Without Source Meters. For users where, in the opinion of the Agency, it is unnecessary or impractical to install meters, the quantity of wastewater may be based upon an estimate prepared by the Agency. This estimate shall be based upon a rational determination of the wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services, or such other determinants of water use necessary to estimate the wastewater volume discharged.

3.03.2 Users With Source Meters. For users who, in the opinion of the Agency, divert a significant portion of their flow from a community sewer, the user charges may be based upon an estimate of the volume to be discharged, provided the user obtains a Wastewater Discharge Permit and pays the applicable user charges and fees. The estimate " must include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

Chapter 4 ADMINISTRATION

4.01 Discharge Reports. The Agency, or the Authority through the Agency, may require that any person discharging or proposing to discharge wastewater into a community sewer file a periodic discharge report. The discharge report may include, but not be limited to, nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, number and classification of employees, or other information which relates to the generation of waste including wastewater constituents and characteristics in the wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site even

though they may not normally be discharged. In addition to discharge reports, the Agency may require information in the form of Wastewater Discharge Permit applications and self-monitoring reports.

4.02 Wastewater Discharge Permits.

4.02.1 Mandatory Permits. All critical users proposing to connect or to discharge into a community sewer must obtain a Wastewater Discharge Permit before connecting to or discharging into a community sewer. All existing critical users connected to or discharging into a community sewer must obtain a Wastewater Discharge Permit within 90 days after the effective date of these regulations. For purposes of these regulations, a critical user is defined as

- All users for which federal categorical standards have been promulgated;

- Any user that discharges 25,000 gallons per day of process wastewater or 50,000 gallons per day total wastewater;

- Any user that contributes a process waste stream which comprises five percent or more of the average dry weather hydraulic or organic (BOD, TSS, etc.) capacity of the wastewater treatment plant;

- Any user that has a reasonable potential, in the opinion of the manager or the pretreatment program approval authority to significantly or adversely affect the treatment plant;

- Any user classified as a critical user under the above definition, except critical users for which federal categorical pretreatment standards have been promulgated, may be de-classified as a critical user if, in the opinion of the Agency, the user has no reasonable potential for adversely affecting the collection and/or treatment system or for violating any pretreatment regulations.

4.02.2 Optional Permits. The Manager may issue a Wastewater Discharge Permit to any user, upon application, in accordance with the terms of this section in the following categories:

- (a) a user who requires the user charges and fees to be based on an estimation of wastewater flow, or

- (b) any user whose wastewater strength is less than the normal range for the user classification to which the user is assigned because of pretreatment, process changes or other reasons.

4.02.3 Permit Application. Users seeking a Wastewater Discharge Permit shall complete and file with the Manager an application in the form prescribed by the Manager and accompanied by the applicable fees. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

- (a) name, address, and SIC number of applicant;

- (b) volume of wastewater to be discharged;
- (c) wastewater constituents and characteristics including, but not limited to, those mentioned in sections 2.08 as determined by a laboratory approved by the Agency;
- (d) time and duration of discharge;
- (e) average and 30-minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any;
- (f) site plans, floor plans, mechanical and plumbing plans, and details to show all sewers and appurtenances by size, location, and elevation;
- (g) description of activities, facilities, and plant processes on the premises including all materials, processes, and types of materials which are or could be discharged;
- (h) each product produced by type, amount, and rate of production;
- (i) number and type of employees, and hours of work;
- (j) any other information as may be deemed by the Manager to be necessary to evaluate the permit application.

The Manager will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Manager may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

4.02.4 Permit Conditions. Wastewater Discharge Permits shall be expressly subject to all provisions of these regulations and all other regulations, user charges, and fees established by the Agency. The conditions of Wastewater Discharge Permits shall be uniformly enforced by the Manager in accordance with these regulations, and applicable state and federal regulations. Permits may contain the following:

- (a) the unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (b) the average and maximum wastewater constituents and characteristics;
- (c) limits on rate and time of discharge or requirements for flow regulations and equalization;
- (d) requirements for installation of inspection and sampling facilities;
- (e) pretreatment requirements;
- (f) specifications for monitoring programs which may include sampling

locations, frequency and method of sampling, number, types and standards for tests, and reporting schedule;

- (g) requirements for submission of technical reports or discharge reports, including, but not limited to baseline monitoring reports, compliance schedule progress reports, report on compliance with categorical pretreatment standard deadline, periodic report on continuous compliance, or any report required by 40 CFR 403.12;
- (h) requirements for maintaining plant records relating to wastewater discharge as specified by the Agency, and affording Agency access thereto;
- (i) mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants (as defined by section 1.02(1)) are proposed or presented in the user's wastewater discharge;
- (j) other conditions as deemed appropriate by the Agency to insure compliance with these regulations.

4.02.5 Duration of Permits. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than one year or may be stated to expire on a specific date. If the user is not notified by the Agency 30 days prior to the expiration of the permit, the permit shall be extended one additional year. The terms and conditions of the permit may be subject to modification and change by the Agency during the life of the permit as limitations or requirements as identified in section 2.08 are modified and changed. The user shall be informed of any proposed changes in his or her permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

4.02.6 Transfer of a Permit. Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

4.02.7 Revocation of Permit. Any user who violates the following conditions of the permit or any conditions of these regulations, or applicable state and federal regulations is subject to permit revocation:

- (a) failure of the user to factually report the wastewater constituents and characteristics of his or her discharge;
- (b) failure of the user to report and obtain prior written approval for significant changes in operations, or wastewater constituents, characteristics, and/or flow rates;
- (c) refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

- (d) violations of conditions of the permit.

4.03 Monitoring Facilities. The Agency may require the user to construct at his or her own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems and may also require sampling or metering equipment to be provided, installed, and operated at the user's expense. The monitoring facility should normally be situated on the user's premises; but the Agency may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area with the approval of the public agency having jurisdiction over that street or sidewalk, and located so that it will not be obstructed by landscaping or parked vehicles.

If the monitoring facility is inside the user's fence, there shall be accommodations to allow access for Agency personnel, such as a gate secured with an Agency lock. There shall be ample room in or near such sampling manhole to allow accurate sampling and compositing of samples for analysis. The manhole, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Agency's requirements and all applicable local agency construction standards and specifications. Construction shall be completed within 90 days following written notification by the Agency unless a time extension is otherwise granted by the Agency.

4.04 Inspection and Sampling. The Agency may inspect the facilities of any user to ascertain whether the purpose of these regulations is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Agency or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The Agency shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security personnel so that, upon presentation of suitable identification, personnel from the Agency will be permitted to enter without delay for the purposes of performing their specific responsibilities.

4.05 Pretreatment. Users shall make wastewater acceptable under the limitations established herein before discharging to any community sewer. Any facilities required to pretreat wastewater to a level acceptable to the Agency shall be provided and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Agency for review, and shall be acceptable to the Agency before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Agency under the provisions of these regulations. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Agency.

4.06 Protection from Accidental Discharge. Each user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by these regulations. Such facilities shall be provided and maintained at the user's expense. Detailed plans showing

facilities and operating procedures to provide this protection shall be submitted to the Agency for review, and shall be acceptable to the Agency before construction of the facility.

The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this section.

4.07 Confidential Information. All information and data on a user obtained from reports, questionnaires, permit application, permits, and monitoring programs, and from inspections, shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Agency that the release of such information would divulge information, processes, or methods which would be detrimental to the user's competitive position.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available to government agencies for use in making studies; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the Agency as confidential shall not be transmitted to any other governmental agency until and unless prior and adequate notification is given to the user, except in emergency or extraordinary circumstances. The notification provision of this section shall not be construed to require the consent or approval of the user before such information is released.

4.08 Special Agreements. Special agreements and arrangements between the Agency and any persons or agencies may be established when, in the opinion of the Agency, unusual or extraordinary circumstances compel special terms and conditions. Under no circumstances, however, will any special agreement or arrangement be established which contravenes any federal pretreatment regulation, categorical pretreatment standard, or any other provision of federal law.

4.09 Signature Requirement. All reports and/or permit applications received and/or required under these regulations shall include the certification statement as set forth in 40 CFR 403.6(a)(2)(ii) and shall be signed:

- (a) by a responsible corporate officer, if the user submitting the reports is a corporation. For the purpose of this paragraph, a responsible corporate officer means:
 - (1) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function; or any other person who performs similar policy or decision-making functions for the corporation; or
 - (2) the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (b) by a general partner or proprietor if the user submitting the reports is a partnership or sole proprietorship, respectively;
- (c) by a duly authorized representative of the individual designated in paragraph (a) or (b) of this section if:
 - (1) The authorization is made in writing by the individual designated in paragraph (a) or (b);
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - (3) The written authorization is submitted to the Agency.
- (d) If an authorization under paragraph (c) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (c) of this section must be submitted to the Agency prior to or together with any reports to be signed by an authorized representative.

4.10 Retention of Records. All records, including but not limited to discharge reports, permits, self-monitoring data, pretreatment system process control logs, and relevant correspondence (whether or not required by these regulations) must be maintained by the user for a period of not less than three years. All such records shall be made available for inspection and copying by a duly authorized representative of the Agency or any other governmental entity having jurisdiction.

4.11 Public Notification of Dischargers Found to be in Significant Non-Compliance. At an interval of not less than: once per year, the Agency will publish the identities of any user(s) which is (are) found to be in significant non-compliance of any national pretreatment standard, discharge limitation or prohibition, or any other requirement of these regulations'. The definition of significant non-compliance shall be as specified in 40 CFR 403.8(f)(2)(vii). The publication shall occur in the newspaper having the largest daily circulation within the service area of the Agency.

4.12 Notification of Changed Discharge. All users, whether or not controlled by permit under the provisions of section 4.02, must notify and obtain approval for any substantial changes in the volume or character of pollutants in, their discharges.

4.13 Notification of Hazardous Waste Discharge.

- (a) All industrial users discharging any substance which, if otherwise disposed of, would be a hazardous or acutely hazardous waste under 40 CFR 261, must comply with the reporting requirements of 40 CFR 403.12 (p) (1) and (3) unless exempted under the provisions of 40 CFR 403.12 (p) (2).

- (b) In the case of any notification made under section (a) above, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. The Agency may accept a copy of a hazardous waste reduction or minimization plan as otherwise required by law.

Chapter 5 WASTEWATER CHARGES AND FEES

5.01 Schedule of Charges and Fees. A schedule of charges and fees shall be adopted by the Agency which will enable it to comply with the revenue requirements of the State Clean Water Grant Program and charges and fees shall be determined in a manner consistent with regulations of the grant program.

5.02 Classification of Users. All users shall be classified by assigning each one to a "User Classification" category according to the principal activity conducted on the user's premises and appropriate non-industrial classifications as determined by the Agency. The purpose of such classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics to provide an effective means of source control, and to establish a system of user charges and fees which will insure an equitable recovery of the Agency's cost.

5.03 Types of Charges and Fees. The charges for each wastewater constituent and characteristic shall be established by the Agency and set forth in the Agency's schedule of charges and fees, which may include, but not be limited to:

- (a) user classification charges;
- (b) fees for monitoring;
- (c) fees for permit applications;
- (d) appeal fees; or
- (e) charges and fees based on wastewater constituents and characteristics to include industrial cost recovery provisions of the federal Act.

5.04 Determination of User Charges and Fees. When user classification charges are established, they shall be based upon a minimum basic charge for each premise, computed on the basis of the characteristics of wastewater from a domestic premise. The quantitative values for the characteristics, including biochemical oxygen demand (BOD), suspended solids (SS), and volume of domestic wastewater (flow), are as follows:

BOD — 170 mg/L
SS — 198 mg/L
Flow — 200 gallons/day

or as may hereafter be revised from time to time by resolution of the Agency.

The charges for all classifications of users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premise.

The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of that user which may include, but not be limited to, BOD, SS, and volume.

Chapter 6 ENFORCEMENT

6.01 Notification of Discharge. Users shall notify the Agency immediately upon accidentally discharging wastes in violation of these regulations and/or discharging any slug loading to enable countermeasures to be taken by the Agency to minimize damage to the community sewer, treatment facility, treatment processes, and the receiving waters.

This notification shall be followed, within five days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve users of liability for any expense, loss, or damage to the sewer system, treatment plant, or treatment process, or for any fines imposed on the Agency on account thereof under section 13350 of the California Water Code, or for violations of section 5650 of the California Fish and Game Code.

6.02 Issuance of Cease and Desist Orders. When the Agency finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of these regulations, or the provisions of a Wastewater Discharge Permit, the Manager may issue an order to cease and desist, and direct that those not complying with such prohibitions, limits, requirements, or provisions:

- (a) comply forthwith;
- (b) comply in accordance with a time schedule set forth by the Agency; or
- (c) take appropriate remedial or preventive action in the event of a threatened violation.

6.03 Submission of Time Schedule. When the Agency finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in these regulations, or wastewater source control requirements, effluent limitations or pretreatment standards, or the provisions of a Wastewater Discharge Permit, the Agency may require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of the requirements.

6.04 Appeals. Any user, permit applicant, or permit holder affected by any decision, action, or determination, including cease and desist orders made by the Manager, interpreting or implementing the provisions of these regulations or in any permit issued herein, may

file with the Manager a written request for reconsideration within ten days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

If the ruling made by the Manager is unsatisfactory to the person requesting reconsideration, he or she may, within ten days after notification of Agency action, file a written appeal to the Agency's governing body. The written appeal shall be heard by the body within 30 days from the date of filing. The Agency's governing body shall make a final ruling on the appeal within ten days of the close of the hearing. The Manager's decision, action, or determination shall remain in effect during such period of reconsideration.

6.05 Notices to Employees. In order that employees of users be informed of Agency requirements, users shall make available to their employees copies of these regulations together with such other wastewater information and notices which may be furnished by the Agency from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of these regulations.

6.06 Preventive Measures. Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system should be eliminated. Where such action is impractical or unreasonable, the user shall appropriately label such entry points to warn against discharge of such wastes in violation of these regulations.

Chapter 7 ABATEMENT

7.01 Public Nuisance. Discharge of wastewater in any manner in violation of these regulations or of any order issued by the Manager as authorized by these regulations, is hereby declared a public nuisance and shall be corrected or abated as directed by the Manager. Any person creating a public nuisance shall be subject to provisions of Agency codes or ordinances governing such nuisance.

7.02 Injunction. Whenever a discharge of wastewater is in violation of the provisions of these regulations or otherwise causes or threatens to cause a condition of contamination, pollution, or nuisance, the Agency may petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such discharge.

7.03 Damage to Facilities. When a discharge of wastes causes an obstruction, damage, or any other impairment to Agency facilities, the agency may assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's charges and fees.

7.04 Civil Penalties. Any person who violates any provision of these regulations or permit conditions, or who discharges wastewater which causes pollution, or who violates any cease and desist order, prohibition, effluent limitation, national standard of performance, pretreatment or toxicity standard, shall be liable civilly to penalties imposed by the Agency against which the violation occurs. The attorney of the Agency, upon order of the Agency's governing body, shall petition the superior court to impose, assess, and recover such sums as may be

applicable. In addition, the Agency may refer any violations of these regulations to the office of the Alameda County District Attorney for civil prosecution under any applicable statute or provision of law.

7.05 Criminal Penalties. Any person who violates any provision of these regulations, or of a permit or a cease and desist order issued pursuant to these regulations, is guilty of a public offense. The classification of such public offense and the punishment therefore shall be as provided by regulations of the Agency.

7.06 Falsifying Information. Any person who knowingly makes any false statements, representation, record, report, plan, or other document filed with the Agency, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these regulations, shall be punished in accordance with the Agency codes or ordinances governing such falsifications. The attorney of the Agency, upon order of the Agency's governing body, shall petition the Superior Court to impose, assess, and recover such sums as may be applicable.

7.07 Termination of Service. The Agency may revoke any Wastewater Discharge Permit, or terminate or cause to be terminated wastewater service to any premises, if a violation of any provision of these regulations is found to exist or if a discharge of wastewater causes or threatens to cause a condition of contamination, pollution, or nuisance as defined in these regulations. Furthermore, whenever any discharge of wastewater is deemed by the Agency to be an imminent and significant threat to the operation of the wastewater treatment plant, an imminent and significant threat to the health and safety of Agency personnel, or the public, or an imminent and significant threat to the quality of the waters of the state, the Agency may, without prior notice and by whatever means or combination of means available, terminate wastewater service to any premises. This provision is in addition to other statutes, rules, or regulations, authorizing termination of service for delinquency in payment.

7.08 Legal Authority to Impose Administrative Fines. In accordance with section 54739 of the California Government Code, the agency may require any of the following:

- (a) Pretreatment of any industrial waste which the local agency determines is necessary in order to meet standards established by the federal or California state government or other regulatory agencies or which the local agency determines is necessary in order to protect its treatment works or the proper and efficient operation thereof or the health and safety of its employees or the environment.
- (b) The prevention of the entry of such industrial waste into the collection system and treatment works.

7.09 Administrative Fine Procedure.

- (a) The agency may issue an administrative complaint to any person who violates any requirement adopted or ordered by the agency pursuant to paragraph (a) and (b) of Section 7.08. The administrative complaint shall allege the act or failure to act that constitutes the violation of the agency's requirements, the provisions of law authorizing civil liability to be imposed, and the proposed civil penalty.

- (b) The administrative complaint shall be served by personal delivery or certified mail on the person subject to the agency's discharge requirements, and shall inform the person served that a hearing shall be conducted within 60 days after the person has been served. The hearing shall be before the City Manager of the agency or his or her designee, hereafter "hearing officer". The person who has been issued an administrative complaint may waive the right to a hearing, in which case the agency shall not conduct a hearing. A person dissatisfied with the decision of the hearing officer may appeal to the governing board of the agency within 30 days of notice of the hearing officer's decision.
- (c) If after the hearing or appeal it is found that the person has violated reporting or discharge requirements, the hearing officer may assess a civil penalty against that person. In determining the amount of the civil penalty, the hearing officer or board may take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs and corrective action, if any, attempted or taken by the discharger.
- (d) Civil penalties may be imposed by the agency as follows:
 - (1) In an amount which shall not exceed \$2,000 for each day for failing or refusing to furnish technical or monitoring reports.
 - (2) In an amount which shall not exceed \$3,000 for each day for failing or refusing to timely comply with any compliance schedule established by the local agency.
 - (3) In an amount which shall not exceed \$5,000 per violation for each day for discharges in violation of any waste discharge limitation, permit condition, or requirement issued or adopted by the local agency.
 - (4) In an amount which does not exceed \$10 per gallon for discharges in violation of any suspension, cease and desist order or other orders, or prohibition issued, reissued, or adopted by the agency.
 - (5) The amount of any civil penalties imposed under this section which have remained delinquent for a period of 60 days shall constitute a lien against the real property of the discharger from which the discharge originated resulting in the imposition of the civil penalty. The lien provided herein shall have no force and effect until recorded with the county recorder and when recorded shall have the force and effect and priority of a judgment lien and continue for 10 years from the time of recording unless sooner released and shall be renewable in accordance with the provisions of sections 683.110 to 683.220, inclusive, of the Code of Civil Procedure.
- (e) All monies collected under this section shall be deposited in a special account of the agency and shall be made available for the monitoring, treatment, and control of discharges into the agency's sanitation or sewer system or for other mitigation

measures.

- (f) Unless appealed, orders setting administrative civil penalties shall become effective and final upon issuance thereof, and payment shall be made within 30 days. Copies of these orders shall be served by personal service or by registered mail upon the party served with the administrative complaint and upon other persons who appeared at the hearing and requested a copy.
- (g) The agency may, at its option, elect to petition the superior court to confirm any order establishing civil penalties and enter judgment in conformity therewith in accordance with the provisions of sections 1285 to 1287.6, inclusive, of the Code of Civil Procedure.
- (h) No penalties shall be recoverable under this section for any violation for which civil liability is recovered under Section 7.04.
- (i) Any party aggrieved by a final order issued by the governing board of the agency under this section, after granting review of the order of a hearing officer, may obtain review of the order of the board in the superior court by filing in the court a petition for writ of mandate within 30 days following the service of a copy of the decision and order issued by the board. Any party aggrieved by a final order of a hearing officer issued under this section, for which the board denies review, may obtain review of the order of the hearing officer in the superior court by filing in the court a petition for writ of mandate within 30 days following service of a copy of a decision and order denying review of the board.
- (j) If no aggrieved party petitions for writ of mandate within the time provided by this section, an order of the board or a hearing officer shall not be subject to review by any court or agency, except that the board may grant review on its own motion of an order issued under this section after the expiration of the time limits set by that section.
- (k) The evidence before the court shall consist of the record before the board, including the hearing officer's record, and any other relevant evidence which, in the judgment of the court, should be considered to effectuate and implement policies of Tide 5, Division 2 of the Government Code. In every such case the court shall exercise its independent judgment on the evidence.
- (l) Except as otherwise provided in this section, subdivisions (e) and (f) of section 1094.5 of the California Code of Civil Procedure shall govern proceedings pursuant to this section.

Chapter 8 SEVERABILITY

If any provision of these regulations or the application to any person or circumstances is held invalid, the remainder of the regulations or the application of such provisions to other persons or other circumstances shall not be affected.